

Remarks

This is a full and timely response to the non-final Office Action mailed September 05, 2003 (Paper No. 19). Claims 1-2, 5-7, 10, 13-17, 19-22, 24-25, and 27-34 are currently pending in this application, with claims 1, 5, 15, and 22 being independent. This paper requests reconsideration of certain findings of fact in connection with the rejection of the claims. In addition, attached hereto is a new drawing labeled "Fig. 3" prepared in accordance with the examiner's request. Reexamination and reconsideration in light of the following remarks are respectfully requested.

Drawing Objections

In the action, the drawings were objected to under 37 C.F.R. § 1.83(a) as allegedly failing to show each and every feature of the invention specified in the claims. In response, the Applicant has drafted and attached hereto a new drawing labeled "Fig. 3". Subsequent to approval of the attached figure, amendment to the specification will also be made to incorporate said figure by reference. Withdrawal of this rejection is therefore courteously solicited.

Claim Rejections- 35 U.S.C. § 103

In the action, claims 1 and 2 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,239,540 to Rovira et al. ("Rovira") in view of U.S. Patent No. 5,063,610 to Alwadish ("Alwadish"), and further in view of U.S. Patent No. 5,345,430 to Moe ("Moe") and U.S. Patent No. 6,314,573 to Gordon et al. ("Gordon"). This rejection is respectfully traversed.

Independent claim 1 recites a method of providing listeners with information about audio programming being digitally

broadcast comprising, *inter alia*, combining a data signal carrying contextual information about the audio programming with an audio signal carrying the audio programming; receiving the combined data and audio signals from a service provider with a receiver; separating the data and audio signals; transducing the audio signal into audible sound; displaying the contextual information about the audio programming on a display device of the receiver; storing at least a portion of the contextual information of the data signal onto a removable memory medium; and transmitting a purchase signal to the service provider indicating an order to purchase a recording of the audio programming that is indicated by the contextual information being displayed on the display device.

As explained on page 10, lines 15 to 22 of the specification, the above-recited method allows for the simultaneous broadcast and reception of an audio signal and its related contextual information such that the audio signal may be transduced into audible sound at the same time that the contextual information about this audio signal is displayed on a display device. In addition, the above-recited method allows a user to input a request to purchase the audio programming being played such that a purchase signal may be transmitted to a service provider indicating an order to purchase a recording of the audio programming that is indicated by the contextual information being displayed.

In contrast, Rovira, Alwadish, Moe and Gordon, either individually or in combination, fail to disclose, teach or suggest at least the step of transmitting a purchase signal to the service provider indicating an order to purchase a recording of the audio programming that is indicated by the contextual information being displayed on the display device, as is recited in claim 1 of the present invention.

Rovira arguably teaches a method and apparatus for transmitting, receiving and communicating digital data. The Rovira reference, however, fails to disclose, teach or suggest transmitting a purchase signal to a service provider wherein the purchase signal indicates an order to purchase a recording of the audio programming that is indicated by the contextual information being displayed on the display device, as is recited in claim 1 of the present invention.

Alwadish arguably teaches receiving and displaying broadcast information such as a song title or artist name. The Alwadish reference, however, fails to disclose, teach or suggest transmitting a purchase signal to a service provider wherein the purchase signal indicates an order to purchase a recording of the audio programming that is indicated by the contextual information being displayed on the display device, as is recited in claim 1 of the present invention.

Moe arguably teaches a recovery recorder system. The Moe reference, however, fails to disclose, teach or suggest transmitting a purchase signal to a service provider wherein the purchase signal indicates an order to purchase a recording of the audio programming that is indicated by the contextual information being displayed on the display device, as is recited in claim 1 of the present invention.

Thus, Rovira, Alwadish and Moe, either individually or in combination, fail to disclose, teach or suggest at least the step of transmitting a purchase signal to the service provider indicating an order to purchase a recording of the audio programming that is indicated by the contextual information being displayed on the display device, as is recited in claim 1 of the present invention.

Gordon arguably teaches that a consumer (i.e., a viewer having a system account number) can request, through manipulation of a graphical user interface, to subscribe to a package of video programming, i.e., children's programming, at a fixed price (column 3, lines 57-61).

Gordon arguably teaches that the subscription packages may consist of a collection of video programs having a common point of interest, e.g., sports, cooking, travel, automotive, educational, children's programming, home improvement, soap operas, network prime time television broadcasts, music videos, and the like (column 8, lines 52-57). Figures 4-9 of Gordon arguably depict menu selections displayed on a display.

Nevertheless, Gordon fails to disclose, teach or suggest at least the step of transmitting a purchase signal to the service provider indicating an order to purchase a recording of the audio programming that is indicated by the contextual information being displayed on the display device, as is recited in claim 1 of the present invention. Aside from the fact that the programming disclosed within the Gordon reference is limited to video recordings, Gordon additionally fails to disclose, teach or suggest the transmission of a purchase signal indicating an order to purchase an audio recording which is broadcast simultaneously with its related contextual information.

Gordon additionally fails to disclose, teach or suggest the displayed contextual information as indicating a recording of an audio programming that has been carried along with the contextual information. Please note that this relationship is not found within Gordon. A mere reference to menu selections displayed on a display fails to account for this claimed relationship.

In addition, the examiner has failed to point to or provide any reason why one of ordinary skill in the art would have been led to modify or combine the wide and varied spectrum of prior art references relied upon to arrive at the claimed invention, as has been required by the Federal Circuit and the Board of Patent Appeals and Interferences. See, e.g., Ex parte Clapp, 227 USPQ 972, 973 (Bd.Pat.App. & Interf. 1985). To this end, the requisite motivation must stem from some teaching, suggestion or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art, and not from the Applicant's disclosure. See In re Rouffet, 149 F.3d 1350, 1354 (Fed. Cir. 1998). With regards to the present rejection, no such findings have been made.

Accordingly, since Gordon, either individually or in combination with Rovira, Alwadish and Moe, fails to disclose, teach or suggest each and every limitation recited in claims 1 and 2 of the present invention, and further since the requisite motivation to modify or combine the prior art references has not been demonstrated, a prima facie rejection of the claims has not been established. "To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Accord. M.P.E.P. § 2143.03. Withdrawal of this rejection and allowance of the claims are therefore respectfully requested.

In addition, claims 5-7, 10 and 13 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Rovira in view of Alwadish, Moe and Gordon, and further in view of U.S. Patent No. 5,694,162, to Freeny, Jr. ("Freeny"). This rejection is respectfully traversed at least for the following reasons.

Freeny arguably teaches a method for automatically changing broadcast programs. However, Freeny, either individually or in combination with Rovira, Alwadish and Moe, fails to disclose, teach or suggest a purchase signal is transmitted to a service provider wherein the purchase signal indicates an order to purchase a recording of the audio programming that is indicated by the contextual information being displayed on the display device, as is claimed.

In addition, as discussed previously, the examiner has failed to point to or provide any reason why one of ordinary skill in the art would have been led to modify or combine the wide and varied spectrum of prior art references relied upon to arrive at the claimed invention, as has been required by the Federal Circuit and the Board of Patent Appeals and Interferences. Withdrawal of this rejection and allowance of the claims is therefore respectfully requested.

Finally, claims 14-17, 19-22, 24-25 and 27-34 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Rovira, Alwadish, Gordon, Freeny and further in view of U.S. Patent No. 5,579,537 to Takahisa ("Takahisa").

Within the above-recited claims a purchase signal is transmitted to a service provider. This purchase signal indicates an order to purchase a recording of the audio programming that is indicated by the contextual information being displayed on the display device. This feature is not found within the cited prior art.

Takahisa arguably teaches a broadcast system with associated data capabilities. The Takahisa reference, however, fails to disclose, teach or suggest a purchase signal is transmitted to a service provider wherein the purchase signal indicates an order to purchase a recording of the audio

programming that is indicated by the contextual information being displayed on the display device, as claimed.

Accordingly, for at least the reasons set forth above, Rovira, Alwadish, Moe and Gordon, either individually or in combination with Takahisa, fail to disclose, teach or suggest at least the step of transmitting a purchase signal to the service provider indicating an order to purchase a recording of the audio programming that is indicated by the contextual information being displayed on the display device.

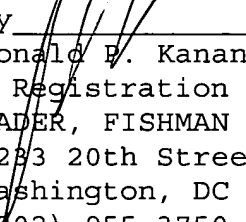
In addition, the examiner has failed to point to or provide any reason why one of ordinary skill in the art would have been led to modify or combine the wide and varied spectrum of prior art references relied upon to arrive at the claimed invention, as has been required by the Federal Circuit and the Board of Patent Appeals and Interferences. Withdrawal of this rejection and allowance of the claims is therefore respectfully requested.

Conclusion:

For at least the foregoing reasons, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the examiner is respectfully requested to pass this application to issue. If the examiner has any comments or suggestions that could place this application in even better form, the examiner is invited to telephone the undersigned attorney at the below-listed number.

Dated: December 2, 2003

Respectfully submitted,

By   
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Ronald P. Kananen  
Registration No.: 24,104  
RADER, FISHMAN & GRAUER PLLC  
1283 20th Street, N.W. Suite 501  
Washington, DC 20036  
(202) 955-3750  
Attorney for Applicant

Attachment: Figure 3